

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

DANIEL BOSH,

Plaintiff,

v.

**CHEROKEE COUNTY
GOVERNMENTAL BUILDING
AUTHORITY, et al,**

Defendants.

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Case No. 11-CV-376-JHP

ORDER

The Court has considered the parties' submission regarding proposed amendments to the Second Amended Scheduling Order, attorneys' fees, and potential sanctions arising from Defendants Chronister and Girdner's failure to comply with this Court's November 20, 2013 Opinion and Order. [Doc. No. 160.]

With regard to the parties' proposed schedule for production of certain information, as outlined in the parties' submission [*Id.* at ¶¶ 1-5], the Court finds the schedule appropriate under the circumstances and adopts the production deadlines outlined therein as the order of this Court. Further, for similar reasons, Plaintiff's Motion to Amend the Deadline for Filing Witness and Exhibit List [Doc. No. 146] is granted. The parties are directed to exchange and file Witness and Exhibit Lists by March 24, 2014.

With regard to the parties' proposed March 7, 2014 dispositive motion deadline [*Id.* at ¶ 6], the Court finds this request appropriate under the circumstances and adopts this deadline as the order of this Court. However, the briefing schedule for dispositive motions is altered as

follows: (1) response briefs must be submitted by March 17, 2014, and (2) reply briefs must be submitted by March 24, 2014.

With regard to the parties proposal regarding Defendants' agreement to refrain from objecting to the timeliness of any expert report pertaining to certain medical records of Defendant Girdner [*Id.* at ¶ 7], the Court finds Defendants' waiver of their right to object to the timeliness appropriate and adopts same as the order of this Court. In addition, the Court resets the deadline for filing Motions in Limine and Daubert Issues [Doc. No. 106, ¶ 6], currently set for March 24, 2014, to April 16, 2014. Further, the briefing schedule for Motions in Limine and Daubert Issues is altered as follows: (1) response briefs must be submitted by April 18, 2014, and (2) reply briefs must be submitted by April 21, 2014.

With regard to Defendants Girdner and Chronister's agreement to pay reasonable fees and costs incurred by Plaintiff's counsel as a result of Defendants Girdner and Chronister's violation of this Court's November 20, 2013 Order, the Court finds this relief appropriate under the circumstances and adopts same as the order of this Court. Further, the Court will determine the amount to be awarded as reasonable fees and costs in accordance with Fed. R. Civ. P. 37(a). The Plaintiff is directed to file his request for reasonable fees and costs by March 14, 2014. Defendants Girdner and Chronister's Response thereto shall be filed by March 21, 2014.

Finally, the Court has considered the parties' proposed evidentiary sanction [Doc. No. 160, ¶ 9], the parties' briefs on the issue [Doc. Nos. 147, 153, and 155], and the arguments of counsel at the February 24, 2014 hearing [Doc. No. 159], and finds additional sanctions inappropriate at this time. Nevertheless, any further discovery misconduct by Defendants Girdner and Chronister may result in more serious sanctions, including, but not limited to, merits sanctions as set out in Fed. R. Civ. P. 37.

Accordingly, as set forth above, Plaintiff's Motion for Sanctions [Doc. No. 147] is **GRANTED in part, DENIED in part**. Further, Plaintiff's Motion to Amend the Deadline for Filing Witness and Exhibit List [Doc. No. 146] is **GRANTED**.

IT IS SO ORDERED this 26th day of February, 2014.



James H. Payne
United States District Judge
Eastern District of Oklahoma